IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 66 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.R.VORA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JAYESHBHAI KHANDUBHAI PATEL
Versus
THE STATE OF GUJARAT

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Appearance :
MS SANVITA SONI for MR MP SHAH & MS. KRUTI M SHAH for Applicant
MS DS PANDIT APP for Respondent

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CORAM : HONOURABLE MR.JUSTICE J.R.VORA
Date : 03/02/2006

ORAL JUDGMENT

1 Heard learned Advocate Ms Sanvita Soni for learned Advocate Mr. M.P. Shah for the applicant. RULE. Waived by learned APP Ms. D.S. Pandit for the respondent State.

2 This is a Criminal Revision Application preferred against an order passed by Judicial Magistrate, First Class,

Bardoli, refusing and rejecting an application preferred by the present applicant to hand over mudammal Maruti Van to him pending trial.

3 Maruti Van bearing No. GJ-15-E-6208 was found being used for the purpose of transporting prohibited liquor and hence a crime came to be registered against two persons before Palsana Police Station on 5th of December, 2005 being Crime Register No. III-1005 of 2005 under the Bombay Prohibition Act against the accused. Police seized the said vehicle in the said crime and the present applicant claiming himself to be registered owner of the said vehicle, claimed the above vehicle during pendency of the said trial. However, learned Judicial Magistrate, First Class, Bardoli, refused his request vide order dated 18th of January, 2006, on the ground that vehicle in question came to be transferred in Registration Book after the commission of crime.

4 In view of the decision of the Apex Court in the matter of SUNDERBHAI AMBALAL DESAI vs. STATE OF GUJARAT, as reported in 2003 (1) GLH 307, the vehicle in question though might have been transferred in the name of the applicant after the crime was registered, is required to be handed over to the applicant. The applicant is undoubtedly the registered owner of the vehicle and learned Advocate for the applicant states that none except applicant claims the vehicle.

5 In view of above, this Revision Application is allowed to the extent that the order impugned is set aside and Maruti Van seized by the police bearing Registration No. GJ-15-6208 is directed to be handed over to the present applicant on following terms and conditions pending trial :

i) That the applicant shall furnish personal bond of Rs. 1,50,000/- before the Trial Court with condition that the vehicle shall be produced before the Trial Court whenever the Trial Court directs the applicant to produce the vehicle.

ii) The applicant shall keep the vehicle in good condition.

iii) The applicant shall not carry on any illegal activities through this vehicle or shall not permit the vehicle to be used in contravention of any law.

iv) The applicant shall not transfer the said vehicle or part with the possession.

6 Rule made absolute to the above extent. DS permitted.

(J.R.VORA, J.)

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